

AMENDED IN ASSEMBLY APRIL 11, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2511**

**Introduced by Assembly Member Dutra**

February 21, 2002

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An act to add Article 9 (commencing with Section 640) to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2511, as amended, Dutra. Public utilities: relocation.

Under existing law, certain transit districts may exercise the right of eminent domain to take any property necessary or convenient to the exercise of their powers. Under existing law, the transit district when exercising this power is, in addition to the damage for the taking, injury, or destruction of property, also required to pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which is required to be moved to a new location.

This bill would require certain public utilities to enter into relocation agreements with public entities, as defined, in connection with a transit or transportation capital improvement project. The bill would require a relocation agreement to contain certain elements, and would provide that if a public utility abandons utility relocation work under a relocation agreement, the public entity may, *pursuant to the terms of the relocation agreement*, assume from the public utility the work of relocating related utilities ~~and the public utility would be required to reimburse the public entity in accordance with the relocation~~

~~agreement.~~ *The bill would provide that the rights and remedies available to a public entity under the bill are nonexclusive and are cumulative of remedies available under other laws or pursuant to contract. The bill would authorize the Alameda Corridor Transportation Authority to provide funding for utility relocation work in accordance with a utility relocation agreement.*

~~Since under provisions of existing law a public utility violating the requirements of this bill would be guilty of a crime, violation of the Public Utilities Act is a crime, the changes to that act that would be made by this bill would change the definition of a crime and impose a state-mandated local program by changing the definition of a crime.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) For many transportation capital improvement projects, it is  
4 necessary for utilities to be moved and relocated in advance of  
5 construction.

6 (b) If utility relocation work cannot be performed  
7 expeditiously, or cannot be completed at all by the appropriate  
8 ~~public~~ utility, the result is significant costs to the public because  
9 construction work for these projects is delayed.

10 (c) It is in the best interest of the state that utility relocation  
11 work on transportation capital improvement projects be  
12 completed expeditiously, *whether by a utility or a public entity, as*  
13 *set forth in an executed utility relocation agreement*, to avoid  
14 unnecessary costs and delays in completing these vital projects.

15 SEC. 2. Article 9 (commencing with Section 640) is added to  
16 Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, to  
17 read:

18

Article 9. Relocation for Transit or Transportation Capital  
Improvement Projects

640. For purposes of this article, a ~~public utility shall mean~~  
*utility shall mean all of the following:*

(a) An electric corporation, as defined in Section 218.

(b) A water corporation, as defined in Section 241.

(c) A telephone corporation, as defined in Section 234.

(d) *A telecommunications carrier, as defined in Section 153 of  
Title 47 of the United States Code.*

(e) A gas corporation, as defined in Section 222.

~~(e)~~

(f) A local publicly owned electric utility, as defined in Section  
9604, and a publicly owned gas utility.

(g) *A cable television corporation, as defined in Section 215.5.*

(h) *A cable operator, as defined in Section 522 of Title 47 of the  
United States Code.*

641. For purposes of this article, a public entity is defined as  
a city, county, city and county, special district, or state agency.

~~642. A public utility shall enter into a relocation agreement  
with a public entity in connection with a transit or transportation  
capital improvement project. The agreement shall be executed  
within 120 days of the public utility receiving a written notice from  
the public entity to enter into the agreement and shall include, but  
not be limited to, the following elements:~~

642. *When a utility enters into a relocation agreement with a  
public entity in connection with a transit or transportation capital  
improvement project, the agreement shall include, but not be  
limited to, the following elements:*

(a) Location of the work to be completed.

(b) Cost arrangements between the parties for the work to be  
conducted.

(c) Schedule for the work to be completed.

(d) Remedies for contract impairment.

(e) Definition of default on the part of either party.

(f) Remedies for default by either party.

(g) *What constitutes abandonment of utility relocation work,  
and remedies for addressing any abandonment.*

643. (a) If a ~~public~~ utility abandons utility relocation work  
under a relocation agreement with a public entity in connection

1 with a transit or transportation capital improvement project, the  
2 public entity may, ~~but is not required to, assume from the public~~  
3 ~~pursuant to the terms of the relocation agreement made pursuant~~  
4 ~~to subdivision (g) of Section 642, assume from the utility the work~~  
5 of relocating utilities that relates to the project within the  
6 jurisdiction of the public entity.

7 ~~(b) Abandonment of relocation work under a relocation~~  
8 ~~agreement by a public utility for purposes of this section occurs~~  
9 ~~when a public utility does not perform the work described in a~~  
10 ~~relocation agreement for a period of 120 days or longer or as set~~  
11 ~~forth in the relocation agreement, whichever is longer.~~

12 ~~(c) Upon abandonment of relocation work under a relocation~~  
13 ~~agreement by a public utility, a public entity may issue contracts~~

14 ~~(b) (1) A public entity may issue contracts with another~~  
15 ~~qualified entity to conduct the utility relocation work. The~~

16 ~~(2) The utility shall offer a first right of refusal to a crew or~~  
17 ~~other subgroup of its own employees that are qualified to conduct~~  
18 ~~utility relocation work to contract with the public entity for the~~  
19 ~~utility relocation work.~~

20 ~~(3) If the crew or subgroup identified in paragraph (2) elects~~  
21 ~~not to contract with the public entity to conduct the utility~~  
22 ~~relocation work, the public entity shall choose a qualified entity~~  
23 ~~from a list provided by the public utility.~~

24 ~~(d)~~

25 ~~(c) Any utility relocation work performed or cause to be~~  
26 ~~performed by the public entity shall be done according to industry~~  
27 ~~standards, under the oversight of the public utility, and upon~~  
28 ~~acceptance by the public utility.~~

29 ~~(e) The public utility shall reimburse the public entity for the~~  
30 ~~public utility's share of the costs of the relocation work in~~  
31 ~~accordance with the relocation agreement executed pursuant to~~  
32 ~~Section 642.~~

33 ~~644. The rights and remedies available to a public entity~~  
34 ~~under this article are nonexclusive and are cumulative to each~~  
35 ~~other and to the remedies or penalties available to the public entity~~  
36 ~~under all other laws or pursuant to contract.~~

37 ~~645. The Alameda Corridor Transportation Authority may~~  
38 ~~provide funding for utility relocation work in accordance with an~~  
39 ~~executed utility relocation agreement made pursuant to Section~~  
40 ~~642.~~

1 SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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